



FIL-PRIM' AWLA TAL-QORTI CIVILI

IMHALLEF

ONOR. GEOFFREY VALENZIA B.A., LL.D.

Seduta ta' nhar It-Tnejn, 27 ta' Frar, 2006.

Kawza Numru: 64

Citazzjoni Nru.411/99GV

Doc. 20-06

L-Avukat Dottor Jotham Scerri Diacono bhala mandatarju specjali ghan-nom u in rappresentanza tas-socjetajiet Eridan Shipping Ltd., Kama II Shipping Co. Ltd., Antarus Shipping Co. Ltd., Ferrum Shipping Co. Ltd., u, ghal kull interess illi jista' jkoliha, tas-socjeta' estera Kama River Shipping Company Ltd. - perm, Russia, u b'nota tat-8 ta' Frar, 2001 TODOR HRISTOV VASSILEV assuma l-atti tal-kawza ghan-nom u fl-interess tas-socjetajiet attrici kollha minflok l-avukat Dottor Jotham Scerri Diacono, u b'nota tas-27 ta' Novembru 2001 Ms. Galina Oganesian assumiet l-atti tal-kawza flok Todor Hristov Vassilev.

VS

L-Avukat Dottor Joseph Azzopardi u Prokuratrici Legali Joanna Dingli illi b'digriet tal-Qorti tat-tmienja (8) ta' Frar 1999 gew appuntati kuraturi deputati sabiex jirraprezentaw lill-assenti Stanislav Filatov, u martu Irina Filatova; u CAMCO (Nominee) Limited ghan-nom u in rappresentanza tas-socjetajiet Maltin River-Sea Shipmanagement Limited u E.I. Holdings Limited u Dr. Joseph Azzopardi u PL. Joanna Dingli b'digriet tas-26 ta' Frar, 1999 gew nominati Kuraturi deputati sabiex jirraprezentaw lill-assenti Evgeuni Filatov, Anna Filatova, Vadim Veronine, is-socjeta' estera Capes Shipping Services Inc u b'digriet tal-5 ta' Marzu 2003 is-socjeta' Camco (Nominee) Ltd giet tidher bhala stralecjarja f'isem u ghan-nom ta' River Sea Shipmanagement Ltd u E.I Holdings Ltd u b'digriet tas-27 ta' Mejju 2003 Dr. Joseph Azzopardi gie sostitwit b'Dr. Renzo Porsella Flores.

II-Qorti

Preliminari

Rat I-att tac-citazzjoni li permezz tagħha s-socjeta' attrici ppremettiet illi:

Peress illi matul il-perijodu minn Jannar 1993 sa Frar 1998 il-konvenut Stanislav Filatov kien jew assuma b'mod irregolari il-kariga ta' direttur tas-socjeta' *Eridan Shipping Ltd*;

U peress illi matul il-perijodu minn Marzu 1995 sa Frar 1998 il-konvenut Stanislav Filatov kien jew assuma b'mod irregolari il-kariga ta' direttur tas-socjeta' *Kama II Shipping Co. Ltd*;

U peress illi matul il-perijodu minn Mejju 1995 sa Frar 1998 il-konvenut Stanislav Filatov kien jew assuma b'mod irregolari il-kariga ta' direttur tas-socjeta' *Antarus Shipping Co. Ltd*;

U peress illi matul il-perijodu minn Mejju 1995 sa Frar 1998 il-konvenut Stanislav Filatov kien jew assuma b'mod irregolari il-kariga ta' direttur tas-socjeta' *Ferrum Shipping Co. Ltd*;

U peress illi matul dina il-kariga tieghu bhala direttur tas-socjeta' *Eridan Shipping Ltd, Kama II Shipping Co. Ltd, Antarus Shipping Co. Ltd, u Ferrum Shipping Co. Ltd*; il-konvenut Stanislav Filatov approprija ruhu minn flus, assi u hwejjeg ohra propjeta' ta' I-imsemmija socjetajiet a beneficju tieghu u/jew tal-konvenuti il-ohra jew min minnhom mingħajr ma kien awtorizzat u/jew b'mod frawdolenti u/jew b'mod illecitu u illegali, kif sejjer jigi ampjament pruvat fil-mori tal-kawza;

U peress illi ghallkemm il-konvenut Stanislav Filatov kien verbalment interpellat sabiex jirrifondi il-flus u jirritorna il-flus u jirritorna il-assi u il-hwejjeg il-ohra approprijati minnu, dan naqas li jagħmel dak mitlub minnu u sahansitra ittanta jahbi dan il-agir illegali tieghu billi iddestrugga xi provi li setgħu ntuzaw kontrih;

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U peress illi ghalhekk il-konvenut Stanislav Filatov huwa tenut li jirritorna u jirrestitwixxi dawk il-flus, assi u hwejjeg ohra li jappartjenu lis-socjetajiet attrici, illegalment appropriati minnu, u filwaqt li l-konvenuti l-ohra li benefikaw mill-agir illegali tal-konvenut Stanislav Filatov huma ugwalment tenuti li jirrestitwixxu u/jew jirrifondu kwalunkwa flus, assi u hwejjeg ohra li rcevew u li jappartjenu lis-socjetajiet attrici;

Jghidu ghalhekk il-konvenuti ghaliex dina l-Qorti m'għandiex prevja kull dikjarazzjoni opportuna:

1. Tiddeciedi u tiddikjara illi l-konvenut Stanislav Filatov, matul il-perjodu 1993 - 1998 approprija ruhu minn flus, assi u hwejjeg ohra propjeta' tas-socjeta' *Eridan Shipping Ltd.* a beneficju tieghu u/jew tal-konvenuti l-ohra minghajr ma kien awtorizzat u/jew b'mod frawdolenti u/jew b'mod illecitu u illegali.
2. Tillikwida l-ammont ta' flus u tiddentifika l-assi u l-hwejjeg l-ohra tas-socjeta' *Eridan Shipping Ltd.* illi gew illegalment appropriati mill-konvenut Stanislav Filatov kif intqal.
3. Tordna lill-konvenuti jew min minnhom jirristutwixxu lis-socjeta' attrici *Eridan Shipping Ltd.* l-istess l-flus, assi u hwejjeg ohra appropriati mill-konvenut Stanislav Filatov, hekk likwidati u/jew iddentifikati sabiex is-socjeta' *Eridan Shipping Ltd.* tigi restitwita *in integrum*.
4. Tiddeciedi u tiddikjara illi l-konvenut Stanislav Filatov, matul il-perjodu 1995-1998 approprija ruhu minn flus, assi u hwejjeg ohra propjeta' tas-socjeta' Kama II Shipping Co. Ltd. a beneficju tieghu u/jew tal-konvenuti l-ohra minghajr ma kien awtorizzat u/jew b'mod frawdolenti u/jew b'mod illecitu u illegali.

5. Tillikwida l-ammont ta' flus u tiddentifika l-assi u l-hwejjeg l-ohra tas-socjeta' *Kama II Shipping Co. Ltd.* illi gew illegalment approprijati mill-konvenut Stanislav Filatov kif intqal.
6. Tordna lill-konvenuti jew min minnhom jirristitwixxu lis-socjeta' attrici *Kama II Shipping Co. Ltd.* l-istess flus, assi u hwejjeg ohra approprijati mill-konvenut Stanislav Filatov, hekk likwidati u/jew identifikati sabiex is-socjeta' *Kama II Shipping Co. Ltd* tigi restitwita *in integrum*.
7. Tiddeciedi u tiddikjara illi l-konvenut Stanislav Filatov, matul il-perjodu 1995-1998 approprija ruhu minn flus, assi u hwejjeg ohra propjeta' tas-socjeta' *Antarus Shipping Co. Ltd.* a beneficju tieghu u/jew tal-konvenuti l-ohra minghajr ma kien awtorizzat u/jew b'mod frawdolenti u/jew b'mod illecitu u illegali.
8. Tillikwida l-ammont ta' flus u tidentifika l-assi u l-hwejjeg l-ohra tas-socjeta' *Antarus Shipping Co. Ltd.* illi gew illegalment approprijati mill-konvenut Stanislav Filatov kif intqal.
9. Tordna lill-konvenuti jew min minnhom jirristitwixxu lis-socjeta' attrici *Antarus Shipping Co. Ltd.* l-istess l-flus assi u hwejjeg ohra approprijati mill-konvenut Stanislav Filatov, hekk likwidati u/jew iddentifikati sabiex is-socjeta' *Antarus Shipping Co. Ltd.* tigi restitwita *in integrum*.
10. Tiddeciedi u tiddeciedi illi l-konvenut Stanislav Filatov, matul il-perjodu 1996-98 approprija ruhu minn flus, assi u hwejjeg ohra propjeta' tas-socjeta' *Ferrum Shipping Co. Ltd.* a beneficju tieghu u/jew b'mod frawdolenti u/jew b'mod illecitu u illegali.
11. Tillikwida l-ammont ta' flus u tiddentifika l-assi u l-hwejjeg l-ohra tas-socjeta' *Ferrum Shipping Co. Ltd.* illi gew illegalment approprijati mill-konvenut Stanislav Filatov kif intqal.

12. Tordna lill-konvenuti jew minn minnhom jirristitwixxu lis-socjeta' attrici *Ferrum Shipping Co. Ltd.* I-istess l-flus, assi u hwejjeg ohra appropriati mill konvenut Stanislav Filatov, hekk likwidati u/jew iddentifikati sabiex is-socjeta' *Ferrum Shipping Co. Ltd.* tigi restitwita *in integrum*

Bl-ispejjez inkluzi dawk tal-mandat ta' inibizzjoni numru 3743/98 fl-ismijiet premessi, tar-rikors ghall-hatra tal-kuraturi deputati prezentat kontestwalment ma' I-istess mandat ta' inibizzjoni, u bl-imghax legali kontra I-konvenuti jew minn minnhom, u b'rizza illi s-socjetajiet jiprocedu ulterjorment kemm f'Malta u anke' barra minn Malta kontra I-konvenuti jew min minnhom.

Rat id-dikjarazzjoni tas-socjeta' attrici a fol.3 tal-process:

Rat in-nota ta' I-eccezzjonijiet tas-socjeta' konvenuta Camco (Nominee) Limited a fol.18 tal-process fejn eccepier:

- 1) Illi t-talbiet ta' I-atturi fil-konfront tal-esponenti huma nfondati fil-fatt u fid-dritt u għandhom jigu michuda bl-ispejjes kontra I-atturi.
- 2) illi s-socjeta' esponenti, ai termini tal-Kapitolu 330 tal-Ligijiet ta' Malta ma titqiesx bhala residenti f'dawn il-gzejjer u bhala tali ma jistghux jigu ntavolati proceduri kontra tagħha quddiem din I-Qnorabbli Qorti, stante illi din I-Onorabbli Qorti, bir-rispett kollu, ma għandhiex gurisdizzjoni fuq I-istess.
- 3) Illi bla pregudizzju għas-suespost is-socjeta' esponenti tissottometti illi hija ma għandha ebda relazzjoni guridika ma' I-atturi fil-konfront tal-allegazzjonijiet kontenuti fic-citazzjoni u għalhekk għandha tigi liberata mill-osservanza tal-gudizzju bl-ispejjez kontra I-atturi.

(4) Illi l-allegazzjonijiet kontenuti fil-premessi tac-citazzjoni, in kwantu referibbli ghas-socjeta' esponenti, huma ghal kollox vagi u bla ebda fondament guridiku u wiehed jista' jekwiparahom biss ma' dak li l-Inglizi isejhu "*fishing expedition*" u ghalhekk huwa legalment insostenibbli.

(5) Salvi eccezzjonijiet ohra.

Rat **in-nota ta' l-eccezzjonijiet tal-konvenuti kuraturi l-Avukat Dottor Joseph Azzopardi u l-Prokuratur Legali Joanna Dingli nomine** a fol. 23 tal-process fejn eccepew:

Illi huma m'humiex edotti bil-fatti u kwindi jirriservaw id-dritt illi jipprezentaw l-eccezzjonijiet taghhom fi stadju ulterjuri

Rat **in-nota ta' l-eccezzjonijiet tal-konvenuti kuraturi L-Avukat Dott. Renzo Porsella-Flores u l-P.L. Joanna Dingli nomine** a fol. 435 tal-process fejn eccepew:

Illi qabel xejn jehtieg li l-attrici tal-lum – Galina Oganesian – trid tagħmel il-prova tal-mandat tagħha;

Illi f'kull kaz huma ma jafu xejn dwar il-fatti tal-kawza u għalhekk jirriservaw id-dritt li jressqu l-eccezzjonijiet tagħhom aktar il-quddiem.

Rat id-deċizjoni preliminari a fol 46 li biha l-Qorti cahdet it-tieni eccezzjoni tal-konvenuti Camco (Nominee) Ltd.

Rat id-digriet a fol 128;

Rat in-nota a fol 132;

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Rat l-atti kollha tal-kawza u d-dokumenti ezibiti;

Semghet ix-xhieda bil-gurament;

Rat in-noti tal-partijiet.

FATTI

Il-konvenut Stanislav Filatov, ghal xi zmien kien id-direttur ezekuttiv tas-socjetajiet attrici, hlief ghall Kama River Shipping Co Ltd li kienet il-'parent company' ta' dawn is-socjetajiet Maltin u li hi bbazata f'Perm, ir-Russja. Il-konvenut Filatov kien effettivament imexxi s-socjetajiet attrici Maltin izda fl-ahhar zmien tat-tmexxija tieghu, skond l-atturi, il-konvenut kien qieghed jagixxi ta' direttur minghajr l-approvazzjoni ta' l-azzjonisti ta' l-istess socjetajiet attrici Maltin. Fiz-zmien li l-Filatov kien direttur ezekuttiv, huwa kellu kontroll shih fuq il-flejjes (bank accounts etc) u l-assi ta' dawn is-socjetajiet attrici Maltin. Imbagħad il-'parent company' iddecidiet li tibda nvestigazzjoni fuq l-agir tal-konvenut u skond hi rrizultalha li l-konvenut miszappropria flus u assi tas-socjetajiet attrici b'mod li dawn il-flejjes marru a benefiċċju mhux biss tal-konvenut izda wkoll ta' martu, bintu, huh u tas-socjetajiet konvenuti li tagħhom il-konvenut kien il-benefiċċjarju.

Talbiet

Għalhekk l-atturi talbu dikjarazzjoni li l-konvenut Stanislav Filatov appropria ruhu minn flus, assi u hwejjeg ohra propjeta' tas-socjetajiet attrici a benefiċċju tieghu jew tal-konvenuti l-ohra minghajr ma kien awtorizzat, u li tidentifika u tillikkwida l-ammont dovut lill atturi u tordna lill-konvenuti jew min minnhom jirristitwixxu lis-socjetajiet attrici l-istess flus, assi u hwejjeg ohra approprijati.

Eccezzjonijiet

Il-konvenuti wiegbu li huma m'ghandhom ebda relazzjoni guridika ma' l-atturi fil-konfront tal-allegazzjonijiet kontenuti fic-citazzjoni u li dawn l-allegazzjonijiet huma ghal kollox vagi u bla ebda fondament guridiku u ghalhekk legalment insostenibbli. Il-konvenuti kuraturi eccepew li huma m'humiex edotti bil-fatti u li m'ghandhomx jehlu l-ispejjez tal-kawza.

KONSIDERAZZJONIJIET

Kumpaniji offshore

Illi originarjament, is-socjetajiet konvenuti River Sea Shipmanagement Co Ltd u E. I. Holdings kellhom status ta' offshore companies li mbagħad gie mnehhi fil-mori tal-kawza kif jirrizulta mid-dokumenti esibiti a fol 84 u 85. Joseph Psaila xehed li l-kumpaniji konvenuti m'ghadhomx kumpaniji offshore u llum huma mejta (ara fol 424). Fil-ligi Maltija llum kumpaniji offshore m'ghadhomx jezistu u ghalhekk il-Qorti qed tittratta dawn il-kumpaniji bhal kumpaniji Maltin ohrajn. Jirrizulta mid-dokumenti ta' l-MFSA fuq riferiti li dawn is-socjetajiet marru *in liquidation* ghax naqsu milli jottemporaw ruhhom ma' l-Art. 25(2) ta' dak li kien l-Kap. 330.

Rimessi bankarji illeciti – misappropriazzjoni

Il-kumpaniji konvenuti qed isostnu li jekk verament saru rimessi bankarji ma ngabux provi kif titlob il-ligi biex jigi pruvat fejn spicċaw dawn il-flus. Il-fatt li setghu saru rimessi ma jfissirx illi dawn saru b'mod illecitu u minghajr il-kunsens ta' l-azzjonisti u d-diretturi precedenti. L-azzjonisti u d-diretturi precedenti ma ngabux biex jixħdu u l-provi li ngabu huma bbazati biss fuq supposizzjonijiet u mhux fuq fatti konkreti. Anke jekk il-Qorti ssib li Filatov misapproprija ruħħu minn xi flus ta' l-atturi, huwa Filatov biss li għandu jirrifondi dak li ha.

Fuq dana l-punt, xehed dettaljatament Todor Vassilev quddiem il-Qorti u fiz-zewg affidavits li huwa pprezenta liema xhieda ma gietx kontestata.

Fuq il-posizzjoni tal-konvenut Stanislav Filatov fil-kumpaniji, Vassilev qal li Filatov - directed, managed and ran the Kama Group of Companies. He had full control over the operations of the Group and what he would say would be implemented without question. (Dan hu konfermat mis-segretarja ta' Filatov, Audrey Cefai). He had full control over the funds and monies of the Group. Up to 1997 he was the sole signatory of all known bank accounts and sole holder of the test key facility of Hambros Bank used for telex transfers orders. By means of the key facility Filatov could order by telex message transfers from the bank accounts of the Kama Group of Companies to anybody he decided. He was also one of the directors of the four Kama Companies. In 1996 Filatov and his family moved out of Malta to the US to run the companies.

Vassilev spjega x'kien wassal biex il-parent company Kama River Shipping Company tibda l-investigazzjoni kontra Filatov (Ara wkoll xhieda ta' Antonov li tikkonferma dana). Vassilev qal: *The Group decided to start investigating Filatov because the Maltese companies were making only losses although the ships of the group were regularly engaged in trade. All investigatory work was carried out on the basis of documents that were left in the archive of the Karma Group of Companies and on the basis of the statement of accounts issued by the servicing banks where the accounts of the Group were held. Filatov destroyed part of the archive because he started suspecting that he was being investigated. Witness traced transactions which evinced money passing out of the companies of the Group to recipients which had nothing to do with the business of the company. He asked the banks, through an English law firm, to produce statements of the accounts and examined cheque book stubs. Witness was responsible for chartering and operating the ships, so he knew what costs and expenses were involved. He found that no proper accounts were being held. They instituted the*

Fit-23.4.1996 Filatov ghamel *transfer ta' US \$48,000 fl-account tieghu mal BOV Int.Ltd ghal 'Management fees'* (evidence 3.2.4).

Fid-9.5.1996 Filatov ghamel *transfer lill E.I.Holdings ta' US \$48,131 ghal Kama Shipping expenses* (evidence 3.2.5.).

Fis-17.5.1996 Filatov ghamel *transfer lill bank account ta' J & M Parnis England fl-ammont ta' US \$32,000 settlement ta' consultancy fees* (evidence 3.2.6). Vassillev jghid li ma kien hemm ebda *agreement simili ma J & M Parnis England ghal consultancy services.* Dawn il-flus mhux qed jintalbu.

Fl-20.5.1996 Filatov ghamel *transfer lill E.I.Holdings Ltd US \$290,000 ghal 'settl. of agreement 190496* (evidence 3.2.7) Vassilev jghid: *no such agreement existed and no services were rendered by E I Holdings Ltd to Kama Malta Shipping.*

Fl-20.5.1996 Filatov ghamel *transfer lill River Sea Shipmanagement Ltd US \$310,000 for 'settl. Of agreement 190496'*. (Evidence 3.2.8).

Fil-18.8.1996 Filatov ghamel *transfer ta' \$25,000 lill E I Holdings Ltd in settlement of Kama Shipping expenses* (evidence 3.2.9).

Fil-30.7.1996 Filatov ghamel transfer ta' US \$ 62,000 lill E I Holdings Ltd *in settlement of Kama Shipping expenses* (evidence 3.2.10).

Vassillev xehed li *all these transactions were done without the knowledge, authorization and approval of the Board or shareholders of Kama Malta Shipping Co.Ltd.... In just 8 months Filatov managed to misappropriate US \$ 1,043,656 from the account held with Hambros Bank Ltd.*

Il-flus li l-atturi qed jitolbu huma dawk indikati a fol. 150 tal-process fl-ammont ta' US \$1,043,656. Ma dawn irid jizdied l-ammont ta' US \$ 11,000 li kif gja nghad gie transferred lill Capes Shipping bla awtorizzazzjoni. B'kollox US \$1,054,656.

Vassilev jkompli jghid li *there are other transactions which were not authorized, but plaintiffs are limiting their claim for this amount to avoid further expenses. For instance Filatov used to pay the expenses which should have been paid by River Sea Shipmanagement Ltd, Filatov's company, for bare-boat charters, with money from Kama Malta Shipping Co.Ltd.*

Fit-tieni affidavit tieghu Todor Vassilev pero' jiddikjara li *plaintiffs are now restricting their claim to USA \$1,000.000 against Filatov and are waving the claims against his family members and relatives.*

Filatov u l-kumpaniji tieghu

Il-konvenuti ssottomettew ukoll li It-talbiet attrici għandhom jigu rigettati ghax ma giex ippruvat in-ness dirett mas-socjetajiet konvenuti River Sea Shipmanagement u E.I.Holdings u lanqas gie pruvat li l-beneficċju finali mar a favur tagħhom.

F'dan ir-rigward Vassilev xehed dwar ir-relazzjoni li kien hemm bejn Filatov u l-kumpaniji li għal għandhom gew trasferiti l-fondi li ttieħdu mill-kumpaniji attrici. Hu qal li Filatov kien *the beneficial shareholder of River Sea Shipmanagement Ltd, E.I Holdings Ltd and River Sea Ltd. These three companies shared the premises of the plaintiffs companies at South Street, Valletta. Filatov was the only person signing documents on behalf of these three companies.* Dan gie konfermat mis-segretarja ta' Filatov, Audrey Cefai u minn Joseph Psaila a fol 424.

Fil-kaz tar-relazzjoni bejn Filatov u Capes Shipping Inc. tal-U.S.A. Vassilev qal li - *when Filatov settled in the US we were able to contact him at the telephone/faxes*

of Capes Shipping Inc. Stephen Parnis England ikkonferma li Filatov kien mar jahdem ma Capes (ara fol 457).

Tikkunsidra

Illi mill-ezami ta' dawn il-provi prodotti I-Qorti għandha quddiemha stampa ta' kif il-konvenut Stanislav Filatov kien jittrasferixxi flus minn kont bankarju li s-socjetajiet attrici kellhom f'Hambros Bank, Londra a beneficċju tieghu u tal-kumpaniji tieghu, cjoe tal-konvenuti l-ohra. Dan jirrizulta dettaljatament mill-provi prodotti mill-atturi. Dawn it-trasferimenti kienu jsiru fuq struzzjonijiet tal-konvenut Filatov li kien il-persuna li kien jidderigi u jmexxi s-socjetajiet Maltin wahdu. Dan il-konvenut setgha jagħmlu ghax kellu l-kontroll assolut tal-finanzi tas-socjetajiet attrici. Gie pruvat li Filatov ma kienx awtorizzat mill-board tad-diretturi u mill-azzjonisti biex jagħmel dawn it-trasferimenti kontra l-interess tas-socjetajiet Maltin u fl-interess ta' Filatov personali jew tal-kumpaniji tieghu (Ara xhieda ta' Antonov u minuti tal-laqghat li gew ezibiti).

Ingab bhala exempju ta' dan, it-transfer ta' fondi minn Filatov fl-ammont ta' \$11,000 mill-kumpanija Antarus Shipping Co. Ltd ghall Capes Shipping Co. Inc. ta' l-Istati Uniti. Dan ma setghax kien awtorizzat minn Antarus billi dina ma kienitx tinneżgozja ma' Capes Shipping.

Inoltre ngabet prova li f'perjodu ta' tmien xhur Filatov hareg l-ammont ta' US \$ 1,043,656 mill-akkont tas-socjetajiet attrici maltin li kellhom mal Hambros Bank Londra għal gol *bank account* personali tieghu u tal-kumpaniji tieghu River Sea Shipmanagement Ltd, E.I.Holdings Ltd u dana meta ma kienx awtorizzat jagħmel hekk u meta ma kienux dovuti dawk il-flus kollha f'dak il-perjodu ta' tmien xhur. Todor Vassilev ipprezenta l-provi dokumentarji dwar kemm ammonti gew trasmessi u f'liema *bank accounts* spiccaw il-flus. Vassilev spjega li Kama Group ma kienx jinneżgozja ma' E. I. Holdings Ltd. għalhekk it-transfers li saru lilha ma setghux kienu awtorizzati jew approvati mill Board jew shareholders tal-Kama

Malta Shipping Co. Ltd. Gie pruvat li Filatov kien il-beneficial *shareholder* ta' River Sea Shipmanagement Ltd, E. I Holdings Ltd and River Sea Ltd u kien l-persuna li kien jiffirma u jidher ghan nom ta' dawn il-kumpaniji u kien jitfa l-flus li kien jiehu f'dawn il-kumpaniji. Fir-rigward ta' Capes Shipping Inc. tal U.S.A. gie pruvat (ara xhieda ta' Stephen Parnis England u Vassilev) li Filatov kien jahdem ma Capes u kien jigi kkuntattat fuq it-telephone/faxes ta' dina l-kumpanija, u l-atturi ma kellhomx negozju ma dina l-kumpanija Amerikana.

Minn naha l-ohra l-konvenuti (l-kuraturi parti) ma gabu ebda prova biex jiggustifikaw it-trasferimenti li dwarhom l-atturi pprezentaw il-provi dokumentarji u li huma jghidu li saru minghajr awtorizzazzjoni u li kienu fittizji.

Solidarjeta' tal-kumpaniji konvenuti

Gie pruvat li l-kumpaniji konvenuti, li tramite taghhom Filatov kien jopera, rcevew il-flus li Filatov kien jimmisappraja, u ghalhekk huma obbligati, flimkien ma Filatov, (ara wkoll l-artikolu 1094 tal-Kap 16) li jirrifondu lill-atturi dawk il-flus. Il-kumpaniji konvenuti kienu ippartecipaw fil-misappropriazzjoni tal-flus fis-sens li d-direttur taghhom, Filatov, kien ikkommetta dan l-att delittwali u dawn il-kumpaniji, li originarjament kienu offshore, servew bhala s-siparju li warajh Filatov inheba. (ara Appell Imhallef A. Magri et vs Aeroflot Russian Int. Airlines et 1/7/2005; PA GCD E. Leone Enriquez et vs Dr. A. Farrugia et 12/12/1995; Appell Supermarkets (1960) Ltd vs Le Cram Developments Co Ltd 22/10/2002 u App Dr. J. Herrera noe et vs T. Tabone et noe 15/31996 fost ohrajn).

Flus mitluba

Il-flus li qed jitolbu lura l-atturi huma US \$1,043,656 u US \$11,000, **b'kollox US \$1,054,656**. Fit-tieni affidavit tieghu Vassillev isemmi tlett figuri bhala t-talba tieghu US \$1,054,656; US \$1,054,767 u US \$1,000,000. Dina l-ahhar figura Vassillev isemmija meta jghid li ser huma ser jillimitaw ruuhom ghal dik is-somma minhabba

li kienu gholew l-ispejjez (ara fol 348). Izda fin-nota ta' sottomissjonijiet tagħhom l-attur jerga jinsisti li l-ammont mitlub huwa ta' \$1,054,656. Skond l-atturi l-ammont ta' US \$1,054,656. kellu jigi maqsum hekk:

- i. Il-konvenut Filatov irid jirrifondi l-ammont ta' USA\$80,000 (USA\$48,000 u USA\$32,000) lis-socjeta attrici Eridan Shipping Ltd;
- ii. Il-konvenut in solidum ma River-Sea Shipmanagement Ltd irid jirrifondi l-ammont ta' USA\$372,265 (USA\$62,265 u USA\$310,000) lis-socjeta' attrici Eridan Shipping Co Ltd;
- iii. Il-konvenut in solidum ma E.I. Holdings Ltd irid jirrifondi l-ammont ta' ~~USA\$301,391~~ (USA\$166,260 u USA\$48,131, u USA\$25,000, u USA\$62,000) lis-socjeta' attrici Eridan Shipping Co Ltd;
- iv. Il-konvenut in solidum ma' Capes Shipping Services Inc irid jirrifondi l-ammont US\$11,000 lill Antarus Shipping Co Ltd (originarjament imsejha Kama Malta 1011 Shipping Co Ltd).

DECIZJONI

Għal dawn il-motivi

Il-Qorti tiddeciedi

Prevja li tichad l-eccezzjonijiet tal-konvenuti;

Tilqa' t-talbiet attrici

tiddikkjara li l-konvenut Stanislav Filatov approprija ruhu minn flus, assi u hwejjeg ohra proprjeta' tas-socjetajiet attrici a benefiċċu tieghu u/jew tal-konvenuti l-ohra mingħajr ma kien awtorizzat u/jew b'mod frawdolenti u/jew b'mod illecitu u illegali; tillikkwida l-ammont ta' ta' US \$1,054,656 bhal l-ammont li gie illegalment approprijati minn Stanislav Filatov;

tordna l-konvenuti jirristitwixxu lis-socjetajiet attrici l-istess l-flus hekk likwidati;

bl-ispejjez u bl-imghax kontra l-konvenuti

b'dan li provizorjament id-drittijiet tal-kuraturi għandhom jithallu mill-atturi.

(Signature handwritten in blue ink, dated 18/09/2006)

(1) Zejt: "FILATOV"

(2) Zejt: "USA \$ 591,391"

(3) Zejt: "USA \$ 290,000" *(Signature)*

Irina Filatova, Evgeni Filatov, Anna Filatova, u Vadim Veronine qed jigu liberati mill-osservanza tal-gudizzju spejjez ghall-konvenuti.



ONOR. IMHALLEF GEOFFREY VALENZIA B.A., LL.D


Frankie Mercieca
Deputat Registratur.

